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| 09/275,097      | 03/24/1999  | JOHN C. BURNS        | 53921/64            | 9336             |

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EXAMINER

HARPER, KEVIN C

| ART UNIT | PAPER NUMBER |
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2666

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/275,097

Applicant(s)

BURNS ET AL

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-29 and 31-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-46 is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-11, 23-29 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 12-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

In previous responses, applicant used 09/275,079 in reference to the application. The correct application number is 09/275,097.

***Response to Arguments***

Applicant's arguments with respect to claims 1-6, 9-11, 23-29 and 31-33 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments, see page 11, filed February 13, 2004, with respect to the rejection(s) of claim(s) 1-6, 9-11, 23-29 and 31-33 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hsing, Nishimura, Tiedemann, Choudhury, and Hasegawa.

***Claim Objections***

1. Claim 3 is objected to because it lacks a period.
2. Claims 4-6 are objected to because in parent claim 4, "a priority indicator" in line 2 should be --the priority indicator--.
3. Claims 11 and 33 are objected to because the traffic rates of connections should be listed in order from highest bandwidth to lowest bandwidth (specification, page 22, lines 4-20).
4. Claims 12-22 are objected to because in independent claim 12, "prior" in line 5 should be --priority--.

Appropriate correction is required.

***Drawings***

5. The drawings were received on July 11, 2003. These drawings are approved.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 9 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing (US 6,167,025) in view of Nishimura et al. (US 5,235,599).

6. Regarding claim 1 and 23-24, Hsing discloses a method of releasing switched connections from a network entity (Figure 1 and Figure 2, item 220B; Figure 4A) in a signaling communications network (col. 13, lines 5-17). The switched connections are routed across the communication network (Figures 1 and 3-4) and are established between source and destination entities (col. 7, lines 35-44) using connection establishment request messages (col. 8, lines 29-60). Upon detection of a failure in a signaling link (col. 13, lines 5-17) where a portion of the link remains operational, propagating connection release messages from the network entity toward the source and destination (Figure 4; Figure 6, item 608; Figure 6, item 616 and Figure 7a, item 714-716) for each connection (Figure 6, item 604; Figure 7, item 709). However, Hsing does not disclose that a priority indicator is associated with each connection and that connections are released in order of priority. Nishimura discloses inherently stored priority indicator for connections (col. 25, lines 10-11) and releasing the connections in sequence according to priority (col. 11, lines 46-53; col. 13, lines 34-47). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have priority indicators for connections and propagate connections release messages according to the priority of the connections in the invention of Hsing in order to establish alternate paths first for the high priority connections after a network outage.

7. Regarding claim 9, in Hsing the network is ATM (abstract, lines 1-3).

Claims 2-3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Nishimura as applied to claim 1 or 23 above, and further in view of Tiedemann, Jr. et al. (US 5,914,950).

8. Regarding claims 2-3 and 26, Hsing in view of Nishimura does not disclose compiling an ordered list or table of every connection and releasing the connections in the ordered release list in sequence from highest priority to lowest priority. Tiedemann discloses ordering according to priority a list of users to utilize network resources and selecting in sequence the highest priority user (col. 11, lines 21-30). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have an ordered list of connections for reestablishment in the invention of Hsing in view of Nishimura in order to simplify and expedite the determination and selection of the highest priority connections.

Claims 4-6, 27-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Nishimura and Tiedemann as applied to claim 3 or 24 above, and further in view of Choudhury et al. (US 5,933,412).

9. Regarding claims 4 and 25-28, in Hsing a connection reestablishment message is transmitted (Figure 18b; col. 6, lines 60-62) and includes an identification of the source and destination of the connection. However, Hsing in view of Nishimura and Tiedemann does not disclose that the reestablishment message includes a priority for the connection or a lookup table having priority values. Choudhury discloses a connection setup message that includes including the priority of a connection (col. 20, lines 10-13) and an inherent lookup table including connections and their priorities. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to communicate a priority level of a connection in the invention of Hsing in view of Nishimura and Tiedemann so that each switch of the network is aware of the priority of connections

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to appropriately perform connection reestablishment when a network failure occurs. Further regarding claim 26, the limitations of this claim have been addressed in the rejection of claims 2-3 above.

10. Regarding claim 5, in Hsing messages are transmitted to the source and destination of the connections (Figure 4; Figure 6, item 608; Figure 6, item 616 and Figure 7a, item 714-716).

11. Regarding claim 6, this limitation has been addressed in the rejection of claim 4 above in reference to Hsing in view Nishimura, Tiedemann and Choudhury.

12. Regarding claims 29 and 31, in Hsing the network outage is due to a failure in the ATM signaling link (abstract, lines 1-3; col. 13, lines 5-17).

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Nishimura as applied to claim 9 above, and further in view of Hasegawa et al. (US 5,065,399).

Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Nishimura and Tiedemann as applied to claim 26 above, and further in view of Hasegawa et al. (US 5,065,399).

13. Regarding claims 10-11 and 32-33, Hsing in view of Nishimura (or Hsing in view of Nishimura and Tiedemann) does not disclose ordering a release list according to traffic rates. Hasegawa discloses giving restoration priority to the highest bandwidth connection (col. 2, lines 32-37 and 45-50). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to arrange the list of connections according to priority and bandwidth in the invention of Hsing in view of Nishimura (or Hsing in view of Nishimura and Tiedemann) in order to efficiently reserve spare network bandwidth to accommodate the failed connections.

*Allowable Subject Matter*

14. Claims 12-22 would be allowable if the above claim objections are overcome.
15. Claims 34-46 are allowed.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 703-308-5463. The centralized fax number for the Patent Office is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Harper



April 29, 2004



DANG TON  
PATENT EXAMINER